

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ANTOINETTE CALLOW,

Plaintiff,

V.

THE PRUDENTIAL INSURANCE COMPANY  
OF AMERICA, et al.,

## Defendants.

CASE NO. C07-1247SM

## ORDER DIRECTING SUPPLEMENTAL BRIEFING

The Court, having reviewed plaintiff's response to the Order to Show Cause (Dkt. # 36) and the balance of the record, does now find and ORDER:

(1) It appears from plaintiff's response that the parties are still in dispute regarding the admissibility of extrinsic evidence in this case, and the resulting scope of the trial of the issues in this matter.<sup>1</sup> When conducting *de novo* review of the administrator's decision, this Court should exercise its discretion to hear evidence outside the record **only** when circumstances **clearly establish** that the additional evidence is **necessary** to conduct an adequate review. *Opeta v. NW Airlines Pension Plan*, 484 F. 3d 1211 (9th Cir. 2007) (quoting *Mongeluzo v. Baxter Travenol Long Term Disability Benefit Plan*, 46 F. 3d 938, 944 (9th Cir. 1995) (emphasis in original)).

Accordingly, the parties shall submit additional briefing on the necessity of extrinsic evidence,

<sup>1</sup>The parties have brought this dispute to the Court's attention on two prior occasions. Dkt. ## 15, 27. In each instance, the matter was decided on procedural grounds, and the Court never had the opportunity to reach the merits of the question.

## ORDER - 1

1 conforming to the following briefing schedule:

2 Plaintiff's opening brief shall be due **March 13, 2009**  
3 Defendants' response shall be due **March 23, 2009**  
4 Plaintiff's reply shall be due **March 27, 2009**  
5 Following a ruling on the admissibility of extrinsic evidence, the Court shall set a status  
6 conference to determine a date for trial of the issues.

7 Dated this 4<sup>th</sup> March, 2009.

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10 RICARDO S. MARTINEZ  
11 UNITED STATES DISTRICT JUDGE  
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